



MARYLAND DEPARTMENT OF THE ENVIRONMENT

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Martin O'Malley
Governor

Robert M. Summers, Ph.D.
Secretary

Anthony G. Brown
Lieutenant Governor

March 19, 2014

The Honorable Joseph F. Vallario, Jr.
Members of the Judiciary Committee
Room 101
House Office Building
Annapolis, MD 21401

Re: Letter of Opposition, House Bill 1502 - *Courts and Judicial Proceedings - Civil Actions - Statute of Limitations for Certain Specialties*

Dear Delegate Vallario and Committee Members:

The Maryland Department of the Environment (“MDE” or “Department”) has reviewed House Bill 1502, *Courts and Judicial Proceedings - Civil Actions - Statute of Limitations for Certain Specialties*, and would like to express its opposition to this legislation.

House Bill 1502 proposes to repeal an exemption for a specialty taken for use of the State from the twelve-year statute of limitations for causes of action to enforce performance on certain obligations. Specifically, it proposes to modify Courts and Judicial Proceedings Article §5-102, which now exempts State Departments from a limitations period in actions to compel performance on a (1) promissory note or instrument under seal; (2) bond, except a public officer’s bond; (3) judgment; (4) recognizance; (5) contract under seal; or (6) any other specialty, when “taken for the use of the State.”

In fulfilling its mission, MDE utilizes several of the specialties noted in HB 1502, including:

- Money judgments for penalties in enforcement actions;
- Promissory notes from defendants required to perform corrective and remedial actions; and
- Loans made by the Water Quality Financing Administration (“WQFA”) using loan documents signed under seal.

The Department makes every effort to efficiently and effectively enforce these legal instruments. Restricting MDE to a twelve-year statute of limitations in enforcing older specialties would undermine the Department’s ability to enforce and collect money judgments obtained against defendants for penalties in enforcement actions. Additionally, there are occasions where MDE obtains a promissory note from a defendant who is required to perform some kind of corrective or remedial action. The promissory note is triggered if the defendant fails to timely perform the required action. A limitation on the Department’s ability to require the defendant to perform the required corrective or remedial action in the promissory note would be detrimental to the environment and public health.



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In addition, establishment of a twelve-year statute of limitations could affect MDE's WQFA in several ways. The State Revolving Funds that the WQFA administers are primarily made up of federal funds. The funds are of a revolving nature and loan repayments are required to be paid back into the corpus of the funds. This bill will hinder WQFA's ability to collect repayments if there is a default beyond the twelve year statute of limitations period. This inability to collect will result in non-compliance with the federal grant conditions and potentially result in a loss of federal funds. Also, WQFA issues bonds and pledges loan repayments to payment of its bonds. Restricting WQFA's ability to collect outstanding debt beyond the twelve year period could be viewed negatively by the credit rating agencies and could impact its credit rating.

For all of these reasons the Department opposes House Bill 1502. Please contact me at 410-260-6301 or jeffrey.fretwell@maryland.gov if you would like to discuss this issue further.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey Fretwell", written in a cursive style.

Jeffrey Fretwell